

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18412. Identifying Funding Sources for Contributions and Independent Expenditures Made by Certain Tax Exempt Organizations.

(a) Application. This regulation establishes rules governing organizations that are formed and operate as tax exempt organizations under Internal Revenue Code Sections 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as federal or out-of-state political organizations, which make contributions or independent expenditures totaling \$1,000 or more from their general treasuries to support or oppose a candidate or ballot measure in California, and report the sources of the funds used to make those contributions or independent expenditures as required by Regulation 18215(b)(1).

(b) If a donor to such an organization requests or knows that the payment will be used by the organization to make a contribution or an independent expenditure to support or oppose a candidate or ballot measure in California, the full amount of the donor's payment shall be disclosed by the organization as a contribution. For purposes of this regulation, a donor “knows” that a payment will be used to make a contribution or an independent expenditure if a donor makes a payment in response to a message or a solicitation indicating the organization's intent to make a contribution or independent expenditure. An organization that solicits and receives contributions totaling \$1,000 or more becomes a committee pursuant to Section 82013(a).

(c)(1) If an organization makes a contribution or an independent expenditure from its general treasury that is not fully paid from organizational income, it must identify additional donors if those described in subdivision (b) of this regulation did not provide the full balance of the contribution or independent expenditure. In such cases the organization shall identify and

report donors who pursuant to Regulation 18215(b)(1) are presumed to have had “reason to know” that all or part of their payments would be used to make expenditures or contributions, using a “last in, first out” accounting method, until a sufficient number of donors have been identified and reported to account for the full balance of the contribution or independent expenditure. An organization need not report a donor as a contributor if the organization has evidence clearly establishing specific circumstances that show the donor did not intend that its payment would be used to fund a contribution or independent expenditure. However, an organization shall not knowingly conceal the name of a donor with the purpose of depriving the public of information to which it is entitled under the Act.

(2) If an organization that makes a contribution or an independent expenditure from its general treasury must identify additional donors because those described in subdivisions (b) and (c)(1) of this regulation did not provide the full amount of the contribution or independent expenditure, the organization shall allocate the remaining balance of the contribution or independent expenditure to itself.

(d) The organization shall maintain all records necessary to establish its compliance with subdivisions (b) and (c).

(e)(1) An organization that qualifies as a recipient committee under Title 9 (commencing with Section 81000) of the Government Code shall report as a recipient committee, identifying its contributors as required under subdivisions (b) and (c) of this regulation.

(2) An organization that identifies its donors pursuant to this regulation and also identifies the same donors on a report filed monthly with the Federal Election Commission shall be in compliance with this regulation by identifying the federal committee name and identification number on the campaign schedule which requires contributor identification.

(3) An organization that makes expenditures from income-producing revenues (such as sales of goods or services or investment income) shall file reports as a committee pursuant to Section 82013(b) or (c).

(4) For contributions reported under subdivision (c)(1):

(A) The date that must be listed for contributions received shall be tied to the date or dates of the expenditures.

(B) If the employer and occupation information cannot be obtained, the report shall provide an explanation of the organization's attempts to obtain the information.

(C) Contributors of \$5,000 or more shall be notified by the organization as required by Section 84105 and Regulation 18427.1.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82015 and 82031, Government Code.

HISTORY

1. New section filed 4-19-2012; operative 5-19-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 16).